

SENATE BILL 664

By Gardenhire

AN ACT to amend Tennessee Code Annotated, Title 23,
Chapter 3, relative to the unauthorized practice of
law.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 23-3-101(1), is amended by deleting the subdivision and substituting instead the following:

(1) "Law business" means:

(A) The advising or counseling for valuable consideration of any person as to any secular law;

(B) The drawing or the procuring of or assisting in the drawing for valuable consideration of any paper, document, or instrument affecting or relating to secular rights;

(C) The doing of any act for valuable consideration in a representative capacity where the exercise of professional legal judgment is required;

(D) The obtaining or attempting to obtain for any person any property or property rights whatsoever;

(E) The soliciting of clients directly or indirectly to provide any service covered by this subdivision (1), including through solicitation by mail or mass media, such as web-based marketing, television, radio, or billboards, whether claiming to do so under a trade name or multi-jurisdictional firm name; or

(F) The engaging in the practice of law;

SECTION 2. Tennessee Code Annotated, Section 23-3-101(3), is amended by deleting the subdivision and substituting instead the following:

(3) "Practice of law" means:

(A) The appearance as an advocate in a representative capacity where the exercise of professional legal judgment is required;

(B) The drawing of papers, pleadings, or documents that call for the professional judgment of a lawyer;

(C) The performance of any act in such capacity in connection with proceedings pending or prospective before any court, commissioner, referee, or any body, board, committee, or commission constituted by law or having authority to settle controversies;

(D) The soliciting of clients directly or indirectly to provide any service covered by this subdivision (3), including through solicitation by mail or mass media, such as web-based marketing, television, radio, or billboards, whether under a trade name or multi-jurisdictional firm name; or

(E) Providing, or offering to provide, any service involving legal knowledge or legal advice, whether of representation, counsel, or advocacy, in or out of court, rendered in respect to the rights, duties, regulations, liabilities, or business relations of a person requiring the services, including all public and private positions in which a lawyer may be called upon to examine the law or pass upon the legal effect of any act, document, or law.

SECTION 3. Tennessee Code Annotated, Section 23-3-101, is amended by adding the following as a new subdivision:

() "Intermediary organization":

(A) Means a lawyer-advertising cooperative, lawyer referral service, prepaid legal insurance provider, or a similar organization the business or activities of which include the referral of its customers, members, or beneficiaries to lawyers for the performance of fee-generating legal services or the payment for or provision of legal services to the organization's customers, members, or

beneficiaries in matters for which the organization does not bear ultimate responsibility; and

(B) Does not include a tribunal appointing or assigning lawyers to represent parties before the tribunal or a government agency performing such functions on behalf of a tribunal;

SECTION 4. Tennessee Code Annotated, Section 23-3-103(a), is amended by deleting the following language:

No person shall engage in the practice of law or do law business, or both, as defined in § 23-3-101, unless the person has been duly licensed and while the person's license is in full force and effect, nor shall any association or corporation engage in the practice of the law or do law business, or both.

and substituting instead the following:

(1) No person shall knowingly engage in the practice of law or perform law business, or both, as defined in § 23-3-101, unless, at the time of the engagement:

(A) The person is duly licensed by the Tennessee supreme court; or

(B) The person has fulfilled the educational requirements set forth in Supreme Court Rule 7, §§ 2.01 and 2.02, and has been duly licensed in any jurisdiction, with the license being current and in full force and effect.

(2) No association or corporation shall engage in the practice of law or perform law business, or both, except as permitted under § 48-101-607.

SECTION 5. Tennessee Code Annotated, Section 23-3-108(a), is amended by deleting the following language:

It is unlawful for any person, either directly or indirectly, falsely to advertise the person as, or hold the person out as, a lawyer.

and substituting instead the following:

It is an offense for any person, either directly or indirectly, including acting through an advertising agency, association, or registered intermediary organization to falsely advertise the person as, or hold the person out as, a lawyer if the person is not licensed to practice law or engage in law business.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.